



Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Virginia Board of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-30 and 8 VAC 20-680
Regulation title	<i>Regulations Governing Adult High School Programs and Regulations Governing the General Achievement Diploma</i>
Action title	Update to comport with legislative changes made by HB 1061 and SB 489 (2012) to amend the <i>Regulations Governing Adult High School Programs</i> and to repeal <i>Regulations Governing the General Achievement Diploma</i>
Date this document prepared	June 19, 2012

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Preamble

The APA (Code of Virginia § 2.2-4011) states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of subdivision A. 4. of § 2.2-4006.

- 1) Please explain why this is an emergency situation as described above.
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.

The 2012 General Assembly passed, and the Governor signed into law, HB 1061 and SB 489, which amend § 22.1-253.13:4 of the *Code of Virginia* to strengthen postsecondary education and workplace readiness opportunities for all students, and to consolidate the number of Board of Education-approved diplomas. The

legislation includes a second enactment clause that requires the Board to promulgate emergency regulations to implement the provisions of this legislation.

The legislation would eliminate the General Achievement Diploma by folding it into the Adult High School Diploma, which would be re-named the General Achievement Adult High School Diploma. The legislation would add a requirement that adult students would need to earn a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment in order to be awarded the diploma. The legislation further provides that the General Achievement Adult High School Diploma would include the following requirements:

- Achievement of a passing score on the GED examination;
- Successful completion of an education and training program designated by the Board of Education;
- Achievement of a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment; and
- Completion of other requirements as may be established by the Board.

This document discusses the provisions of the proposed emergency regulations and the Notice of Intended Regulatory Action for permanent changes to the *Regulations Governing Adult High School Programs*, as well as the proposed emergency regulatory action to repeal the *Regulations Governing the General Achievement Diploma*.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

Section [22.1-16](#) of the *Code of Virginia* states that the Board of Education may adopt bylaws for its own government and promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1.

HB 1061 and SB 489, passed by the 2012 General Assembly and signed by the Governor, amend § 22.1-253.13:4 of the *Code of Virginia* to require the Board of Education to promulgate these changes to the regulations to implement the provisions of the legislation.

In addition, Section 2.2-4011 of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of subdivision A. 4. of § 2.2-4006.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

As indicated above, the emergency regulations are necessary to implement the provisions of HB 1061 and SB 489. The legislation would eliminate the General Achievement Diploma by folding it into the Adult High School Diploma, which would be re-named the General Achievement Adult High School Diploma. The legislation would add a requirement that adult students would need to earn a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment in order to be awarded the diploma. The legislation further provides that the General Achievement Adult High School Diploma would include the following requirements:

- Achievement of a passing score on the GED examination;
- Successful completion of an education and training program designated by the Board of Education ;
- Achievement of a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment; and
- Completion of other requirements as may be established by the Board.

The emergency regulations are designed to enhance preparedness for the workplace and for postsecondary education, and strengthen educational and career opportunities for adult students. They also support expanded learning opportunities for adult students by enhancing workplace skills through the attainment of a career and technical education credential for adult students earning the General Achievement Adult High School Diploma.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The second enactment clause in HB 1061 and SB 489 requires the promulgation of emergency regulations. The emergency regulations provide for a foundation for a quality education for adult students receiving a General Achievement Adult High School Diploma so that they will be successful and productive citizens and are prepared for postsecondary education and for the workplace.

Substance

Please detail any changes that will be proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate.

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, and likely impact of proposed requirements
8 VAC 20-30-20		Minimum requirements for adult high school diplomas	Consistent with the legislation, the proposed regulations would specify that only students not subject to compulsory

			<p>attendance could be enrolled in adult high school programs, consistent with language in the legislation. Language permitting younger students to enroll in adult high school programs under exceptional conditions would be eliminated.</p> <p>The regulations would set forth the requirements for a student to earn a General Achievement Adult High School Diploma by:</p> <ol style="list-style-type: none"> 1. Successfully completing the requirements to earn a General Education Development (GED) certificate; 2. Successfully completing an education and training program designated by the Board of Education by completing 20 standard units of credit in the following subjects: English (4 credits), mathematics (3 credits), science (2 credits), history and social science (2 credits), and electives (9 credits), as specified in the current <i>Regulations Governing the General Achievement Diploma</i>; and 3. Earning a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment.
8 VAC 20-680-10		Eligibility for the General Achievement diploma	The legislation would eliminate the General Achievement Diploma; therefore, the associated regulations would need to be repealed.
8 VAC 20-680-20		Course, credit, and assessment requirements	The legislation would eliminate the General Achievement Diploma; therefore, the associated regulations would need to be repealed.

Other amendments to the regulations will be considered in response to public comment and any additional direction from the Board of Education as the permanent regulations move through the regulatory process.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

HB 1061 and SB 489 include a second enactment clause that states: “That the Board of Education shall eliminate technical diplomas that have not been implemented and shall promulgate regulations to implement the other provisions of this act to be effective within 280 days of its enactment.” Therefore, there are no alternatives to this regulatory action.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public meeting is to be held to receive comments on this notice.

Please also indicate, pursuant to your Public Participation Guidelines, whether a Regulatory Advisory Panel or a Negotiated Rulemaking Panel has been used in the development of the emergency regulation and whether it will also be used in the development of the permanent regulation.

The agency is seeking comments on the regulation that will permanently replace this emergency regulation, including but not limited to 1) ideas to be considered in the development of the permanent replacement regulation, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Michelle Vucci; P.O. Box 2120; Richmond, Va. 23218; (p) 804-225-2092; (f) 804-530-4502; or SOACOMMENTS@doe.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time. The Board of Education did not convene a Regulatory Advisory Panel or a Negotiated Rulemaking Panel in the development of the emergency regulation, nor is either panel expected to be used in the development of the permanent regulation.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

These amendments support the family by strengthening postsecondary and workplace preparedness for adult students. The amendments promote economic self-sufficiency by ensuring that adult students are well-prepared for postsecondary opportunities in the workplace.